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FOOT LOCKER

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

Re: Telecommunications Services -- Inside Wiring, Customer Premises  
Equipment, CS Docket no. 95-184

Dear Mr. Caton:

On behalf of my client, West World Holding, Inc. ("West World"), I am writing in response to the FCC's Notice of Proposed Rulemaking released on January 26, 1995, regarding telephone and cable wiring inside buildings. I enclose four (4) copies of this letter in addition to this original.

West World is concerned that any action by the FCC regarding access to private property by large numbers of communications companies may inadvertently and unnecessarily adversely affect the conduct of its business and needlessly raise additional legal issues. The Commission's public notice also raises a number of other issues of concern.

**Background**

West World is in the commercial real estate business. West World owns 5 multi-tenanted office buildings in the central business districts of 4 major cities. These properties contain approximately 1.8 million rentable square feet.

**Issues Raised by the FCC's Notice**

The FCC's request for comments raises the following issues of concern: access

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to private property; location of the demarcation point; standards for connections; regulation of wiring, and customer access to wiring.

### **1. Access to Private Property**

Modern telecommunications is critically important to West World's commercial tenants. No business can survive in today's economy without effective and up-to-date telecommunications services. For that reason, it is equally important to ensure that West World's tenants receive all the services they desire at a reasonable cost. The commercial real estate business is fiercely competitive, and if West World does not provide its tenants with access to the latest telecommunications services, it will not survive.

Government intervention, however, is neither necessary nor desirable to ensure that telecommunications service providers can serve West World's tenants. Indeed, such intervention could have the unintended effect of interfering with West World's ability to manage its properties effectively. Building owners and managers have a great many responsibilities that can only be met if their rights are preserved, including the responsibilities for coordination among tenants and service providers, managing limited physical space, ensuring the security of tenants and visitors and compliance with safety codes. Needless regulation will not only harm West World's interests, but those of its tenants and the public at large.

A building owner must have control over the space occupied by telephone lines and facilities, especially in a multi-tenant building, because only the landlord can coordinate the conflicting needs of multiple tenants and multiple service providers. Large scale changes in society--everything from increased telecommuting to implementation of the new telecommunications law -- are leading to a proliferation of services, service providers and residential telecommunications needs. With such changes, the role of the landlord or manager and the importance of preserving control over riser and conduit space will only grow. For this reason, the best approach to the issues raised in the request for comments is to allow building owners (if they choose) to retain ownership and control over their property -- including inside wiring -- so long as they make sufficient capacity available to meet all the needs of the occupants of their buildings.

A building has a finite amount of physical space in which telecommunications facilities can be installed. Even if that space can be expanded, it cannot be expanded beyond certain limits, and it can be certainly not be expanded without significant expense. Installation and maintenance of such facilities involve disruptions in the activities of tenants and damage to the physical fabric of a building. Telecommunications service providers are unlikely to consider such factors because they will not be responsible for any ill effects.

West World is also concerned and very sensitive about the security of its buildings and its tenants. Telecommunications service providers have no such

obligation. Consequently, any maintenance and installation activities must be conducted within the rules established by a building's manager, and the manager must have the ability to supervise those activities. Given the public's justified concerns about personal safety, no responsible landlord can allow service personnel unlimited access in buildings without management's knowledge and supervision.

West World is also responsible for the compliance of its buildings with local safety and building codes. West World cannot ensure compliance with such requirements if it does not have control over who does what work in these buildings, or when and where they do it. Limiting the owner's control in this area unfairly increases the owner's exposure to liability and adversely affects public safety.

In short, West World is fully capable of meeting its obligations to its tenants. As keen competitors in the marketplace, it will continue to make sure its tenants have the services they need. It is unnecessary for the government to interject itself in this field and any action by the government is likely to prove counterproductive.

## **2. Demarcation Point**

The Notice also asks for comment regarding the need for a common demarcation point and the location of such a demarcation point. West World believes that the only criterion of the location of the demarcation point should be the nature of the property and not the specific technology involved. There should be a uniform demarcation point for all commercial properties which should be inside the premises, preferably at the telephone vault or frame room.

## **3. Connections**

The Notice asks whether the FCC should issue technical standards for connections. Again, West World believes that government action in this regard is unnecessary. The telecommunications industry has already established standards that are widely followed, and we believe that it is in the interests of the companies and their customers that they continued to be followed.

## **4. Regulation of Wiring**

West World has no comments on the merits of any particular scheme for regulating inside wiring because it is not a service provider but a user of telecommunications. In general, however, it is important to note that there are substantial differences between residential and commercial buildings and while it may make sense to account for the convergence in technologies, it probably does not make sense to adopt uniform rules for all kinds of property.

West World is also concerned that the government might impose a huge new expense on telecommunications service providers and building owners by requiring retrofitting of existing buildings. Such matters should be left to the ongoing discussions

regarding amendments to the Motel Building Code. Except where safety is involved, amendments to the building and electrical codes are seldom retroactive.

#### **5. Customer Access to Wiring**

West World has no objection to permitting a tenant to install or maintain its own wiring or buy the wiring from a service provider provided that its rights as owner of the premises are taken into account. A tenant's rights in wiring should not extend beyond the limits of the demised premises and the landlord must retain the right to obtain access to the wiring and the right to control the type and placement of such wiring. The owner of the premises should also have a superseding right to acquire or install any wiring. In any case, a tenant's right to acquire or install any wiring should be governed by state property law and the terms of the tenant's lease. The owner must retain the right to control activities on its own property if need be.

In conclusion, on behalf of West World I urge the FCC to consider carefully any action it may take. Thank you for your attention to these concerns.

Sincerely,

  
Nancy Brandel